


CIVIL ACTION COVER SHEET	TRIAL COURT OF MASSACHUSETTS SUPERIOR COURT DEPARTMENT COUNTY: SUFFOLK	DOCKET NO. 10-2538 E									
PLAINTIFF(S) Commonwealth of Massachusetts	DEFENDANT(S) Morgan Stanley & Co. Incorporated										
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE Glenn Kaplan, AAG, Office of the Attorney General 1 Ashburton Place, 18th Floor, Boston MA 02108 617-963-2453	ATTORNEY (IF KNOWN) Frances S. Cohen, Esq. Bingham McCutchen LLP One Federal Street Boston, MA 02110-1726 BBO# 542811										
BBO# 567308											
Origin code and track designation Place an x in one box only:											
<table style="width:100%; border: none;"> <tr> <td style="width:33%;"><input checked="" type="checkbox"/> 1. F01 Original Complaint</td> <td style="width:33%;"><input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 &104 (After trial)</td> <td style="width:33%; text-align: right;">(X)</td> </tr> <tr> <td><input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial)</td> <td><input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/ Order (Mass.R.Civ.P. 60)</td> <td style="text-align: right;">(X)</td> </tr> <tr> <td><input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C</td> <td><input type="checkbox"/> 6. E10 Summary Process Appeal</td> <td style="text-align: right;">(X)</td> </tr> </table>			<input checked="" type="checkbox"/> 1. F01 Original Complaint	<input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 &104 (After trial)	(X)	<input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial)	<input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/ Order (Mass.R.Civ.P. 60)	(X)	<input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C	<input type="checkbox"/> 6. E10 Summary Process Appeal	(X)
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TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)											
CODE NO. E99 Misc Other (specify) - X track Assurance of Discontinuance, pursuant to G.L. c. 93A §5	TYPE OF ACTION (specify) 	TRACK 									
		IS THIS A JURY CASE? Yes/No No									
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.											
TORT CLAIMS (Attach additional sheets as necessary)											
A. Documented medical expenses to date:											
1. Total hospital expenses		\$ _____									
2. Total Doctor expenses		\$ _____									
3. Total chiropractic expenses		\$ _____									
4. Total physical therapy expenses		\$ _____									
5. Total other expenses (describe)		\$ _____									
Subtotal		\$ _____									
B. Documented lost wages and compensation to date		\$ _____									
C. Documented property damages to date		\$ _____									
D. Reasonably anticipated future medical and hospital expenses		\$ _____									
E. Reasonably anticipated lost wages		\$ _____									
F. Other documented items of damages (describe)		\$ _____									
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)		\$ _____									
Total \$ N/A											
CONTRACT CLAIMS (Attach additional sheets as necessary)											
Provide a detailed description of claim(s):											
		TOTAL \$ N/A									
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT											
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."											
Signature of Attorney of Record <u>Glenn Kaplan</u>		Date: June 24, 2010									
A.O.S.C. 3-2007											

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT

Civil Action No. 10-2538

In re: Morgan Stanley & Co. Incorporated



ASSURANCE OF DISCONTINUANCE
PURSUANT TO M.G.L. CHAPTER 93A, § 5

I. INTRODUCTION

1. Pursuant to the provisions of Massachusetts General Laws Chapter 93A, the Commonwealth of Massachusetts, by and through Martha Coakley, Attorney General, undertook an investigation into the financing, purchase, and securitization of allegedly unfair residential mortgage loans during the period late 2005 through the first half of 2007 by Morgan Stanley & Co. Incorporated (together with its affiliates involved in the mortgage financing and securitization business, "Morgan Stanley"). This is part of a market wide investigation that continues as to entities other than Morgan Stanley.

2. In lieu of litigation and in recognition of Morgan Stanley's assistance and cooperation, the Office of the Attorney General ("AGO") agrees to accept this Assurance of Discontinuance ("AOD") on the terms and conditions contained herein. The AGO and Morgan Stanley voluntarily enter into this AOD.

3. Morgan Stanley enters into this AOD for settlement purposes only and neither admits nor denies the AGO's allegations. This AOD is made without any trial or adjudication of any issue of fact or law.

II. DEFINITIONS

4. For the purposes of this AOD, the following words shall have the following definitions:

- a. "CLTV" means combined loan to value ratio, defined as the ratio of the unpaid principal balance of the first lien loan and any second lien loan that may exist to the then most current value of the property;
- b. "Best Efforts" means activities performed in good faith to achieve the indicated outcome;
- c. "BPO Value" means any property value obtained at Morgan Stanley's request in due diligence in connection with the bulk purchase of mortgage loans from an independent real estate or valuation professional, including but not limited to a broker price opinion;
- d. "Fully Indexed Mortgage Payment" means a payment that is calculated as the first month mortgage payment assuming the interest rate is equal to the then-applicable index plus the margin;
- e. "Fully Indexed Rate" means the interest rate calculated by adding the index at origination and the margin;
- f. "Fully Indexed DTI Ratio" means the ratio of: (i) the borrower's total monthly debt, which includes the borrower's mortgage principal and

interest amounts payable if calculated using the Fully Indexed Rate, to (ii) the borrower's total monthly income;

g. Unless otherwise noted, "LTV" means the loan to value ratio, defined as the ratio of the unpaid principal balance of the loan to the then most current value of the property;

h. "Subprime Loans" for purposes of Section IV of this AOD only, means United States residential mortgage loans purchased in bulk or securitized by Morgan Stanley on or after the date of this AOD and where the loans were originated on or after the date of this AOD, for which the average FICO score for borrowers in the pool is 660 or less at the time of origination; and

i. "UPB" means the unpaid principal balance of the loan.

III. ALLEGATIONS

A. The Relevant Entities

5. New Century Financial Corporation ("New Century") was one of the largest originators of subprime loans in the United States. New Century stopped originating loans and filed for bankruptcy in 2007.

6. Morgan Stanley is one of the nation's largest financial services companies. From 2001 to 2007, Morgan Stanley was a major participant in providing liquidity to originators of "subprime" mortgage loans, which are generally loans to borrowers with weaker credit histories. This subprime business offered Morgan Stanley a variety of profit opportunities, including lending fees and interest on loans, profits from loan purchases, and underwriting fees. While other companies also bought loans, Morgan

Stanley was the largest purchaser of whole loans from New Century, buying tens of thousands of loans. Certain Morgan Stanley investment bankers connected to the subprime mortgage market, in some documents, referred to New Century as a "partner."

B. The Subprime Process

7. Investment banks played a central role in the US subprime lending market by providing mortgage loan originators with both liquidity and access to the capital markets. Because mortgage loan originators generated profits primarily through the sale of their loans, their business was driven by volume. As a result, subprime originators sought ways to borrow money to make more loans for quick resale. A principal source of this capital for subprime lending was warehouse loans provided by entities such as investment banks. Under a warehouse lending arrangement, an investment bank provides an originator with cash through a line of credit. Money borrowed by the originator under the warehouse loan is, in turn, secured by mortgage loans. The investment bank received fees and interest income on the line of credit.

8. The subprime originators aggregated the loans into pools. Typically the originators would either deposit the loans into a trust that would issue securities backed by the loans, or it would sell the loans to an investment bank. The investment bank sought to profit from the first approach by serving as underwriter of securities and taking fees. It sought to profit from the second approach by buying the loans and depositing them into a trust that would issue securities for sale.

9. Investment banks participated in all parts of this process and typically reviewed the loans in order to determine the quality of the lending practices and of the individual loans of their originator partners. Through this process, generally referred to

as “due diligence,” investment banks were able, in some instances, to determine whether there were quality problems with an originator’s loans and to identify individual problem loans.

C. The Morgan Stanley-New Century Relationship

10. Morgan Stanley’s relationship with New Century fell within this general pattern. Morgan Stanley provided funding to New Century for new loan originations through a warehouse facility, acted as underwriter for New Century’s securitizations, and purchased New Century’s loans. Morgan Stanley’s warehouse facilities were lines of credit that provided New Century with access to cash and enabled New Century to quickly convert loans into cash to make additional loans. This enabled New Century to make more loans than it could have using only its own capital. Morgan Stanley, in return, obtained profits and additional business from New Century, including warehouse fees and interest as well as fees for securities underwriting.

11. As part of Morgan Stanley’s relationship with New Century, from time to time, Morgan Stanley entered into agreements to purchase New Century’s loans months in advance (“forward purchases”). Morgan Stanley sometimes committed to buy loans, meeting certain parameters, so far in advance that the loans that were the subject of the agreement had not yet been originated. As a result, New Century was often originating loans for the purpose of fulfilling its commitment to Morgan Stanley.

12. Of the investment banks providing billions of dollars, in the aggregate, in financing to New Century, Morgan Stanley’s warehouse line of credit was the largest; it committed to provide up to \$3 billion of funding during 2006 and 2007. Because the warehoused loans were rapidly sold or securitized, the warehouse line was continually re-

used to fund additional subprime loans. These loans were then sold and the process was repeated.

D. Unfair Loans

13. As New Century expanded in 2005 and 2006, it began to make larger and larger numbers of risky loans to borrowers in Massachusetts.

14. New Century, like many other originators, made a large number of adjustable rate mortgages ("ARMs") with initial "teaser" rates that reset to a much higher interest rate. A very large portion of the dollar value of New Century's subprime loans was ARMs with teaser rates.

15. When it made ARM loans, New Century typically qualified borrowers based on payments made at the teaser rate. New Century's business plan assumed that many borrowers would need to refinance their loans prior to reset. The borrower's ability to refinance depended on continuous appreciation in home prices. New Century made no effort to qualify borrowers at the Fully Indexed Rate.

16. Many of the ARM borrowers would not have qualified for loans under New Century's underwriting guidelines had New Century determined the borrowers' ability to pay the loans at the Fully Indexed Rate. In Massachusetts, a mortgage lender must determine whether a borrower has the ability to repay a prospective loan in accordance with its terms. The lender may not rely on the assumed ability of the borrower to obtain refinancing. As a result, such loans were presumptively unfair under Massachusetts law.

E. The Loan Purchase Process Identified Defects

17. As part of Morgan Stanley's process for purchasing and securitizing subprime loans, it engaged in a number of reviews of the quality of the originators' lending practices and loans. These included, *inter alia*, determining whether the subprime loans were originated in accordance with the originators' underwriting guidelines and assessing compliance with applicable laws ("credit and compliance diligence"), and examining property values ("valuation diligence"). These reviews increasingly demonstrated shortcomings in some of New Century's lending practices and problems with a large number of individual subprime loans.

18. One recurring issue identified by Morgan Stanley was New Century's origination of loans that violated the Massachusetts Division of Banks' borrower's best interest standard ("BBI"). Based on the process Morgan Stanley put in place to review and analyze New Century loans, Morgan Stanley generally excluded such loans from its bulk loan purchases. However, Morgan Stanley performed less due diligence on its warehouse line, and New Century used the financing provided through Morgan Stanley's warehouse line to fund certain loans that violated this Massachusetts law. Other instances where the review and diligence process identified defects in the New Century loan pools and loan origination procedures include the following:

a. Morgan Stanley DTI Analysis

19. Morgan Stanley was aware that New Century typically qualified borrowers based on the teaser rate, and that New Century made no effort to qualify borrowers at the Fully Indexed Rate.

20. Morgan Stanley conducted an analysis in 2006, based on a 2005 research report issued by Morgan Stanley's fixed income group that predicted that, in the then prevailing rate environment, upon reset borrowers could, in aggregate, expect an increase in the DTI ratio by a factor of 1.36. On this basis, a 2006 "teaser"-based DTI ratio of 41% converts into a DTI ratio of 56% at reset, and a 2006 teaser-based DTI ratio of 43% converts into a reset DTI ratio of 58%. Morgan Stanley considered borrowers with DTI ratios in excess of 55% to be unable to afford their loans; based on Morgan Stanley's analysis, the borrowers would be compelled to refinance their loans prior to reset. Borrowers unable to obtain refinancing would not be able to repay their loans. If a proxy for the rate at reset had been estimated using a 1.36 reset multiple, of the Massachusetts loans purchased by Morgan Stanley, 41% had fully indexed DTI ratios on this basis greater than 55%, and 29% had fully indexed DTI ratios on this basis over 60%. For Massachusetts loans purchased by Morgan Stanley from New Century, about 45% of the borrowers would not have qualified had the borrower's ability to pay been assessed using Morgan Stanley's reset DTI analysis.

b. Underwriting Guidelines

21. It was Morgan Stanley's stated policy not to purchase and securitize loans found to violate an originator's underwriting guidelines unless the loans had sufficient compensating factors. The primary purpose of credit and compliance diligence was to determine whether loans offered by New Century for purchase by Morgan Stanley were underwritten in accordance with the originator's underwriting guidelines or whether sufficient compensating factors existed, and whether the loans were otherwise in accordance with law.

22. To help perform credit and compliance diligence Morgan Stanley hired Clayton Services, Inc. ("Clayton"), a firm specializing in diligence and unaffiliated with Morgan Stanley or any originator. Clayton was hired as a vendor to review a sample of loans, usually 25% of the New Century loans in a given pool for purchase. Clayton reviewed the loans based on criteria provided by Morgan Stanley and reported results to Morgan Stanley's due diligence team. These criteria principally concerned whether the loans complied with the originator's underwriting guidelines and whether the loans were in compliance with applicable laws. When Clayton's examination uncovered loans that were in violation of guidelines or law in any respect, it graded the loans as "exceptions."

23. As a result of the due diligence process, Morgan Stanley was aware of quality problems with New Century subprime loan pools by late 2005. These problems included sloppy underwriting for many loans and stretching of underwriting guidelines to encompass or approve loans not written in accordance with the guidelines.

24. In late 2005 and early 2006, Morgan Stanley began rejecting greater numbers of New Century loans as a result of these findings. By March 2006, New Century complained about these rejections and pressured Morgan Stanley to increase the percentage of New Century's offered loans it purchased, suggesting that it would begin shifting its business to other buyers.

25. In April 2006, as Morgan Stanley wrestled with the possibility of losing New Century's business, Morgan Stanley's subprime mortgage team discussed a number of possible responses to this situation. As a result of these discussions, one of Morgan Stanley's senior bankers purchased loans that Morgan Stanley's diligence team had initially rejected. According to Morgan Stanley's records, 228 loans were purchased in

this way. Morgan Stanley's diligence teams began to be more responsive to New Century's desire to include additional loans in the purchase pools.

26. In Morgan Stanley's 2006-2007 New Century pools, the large majority of the loans reviewed by Clayton were identified by Clayton as having some type of exception. Most loans had multiple exceptions.

27. In instances where Clayton found material exceptions to the guidelines, Clayton reviewed the loans to determine whether compensating factors existed. Clayton found during the 2006-2007 period that approximately 9% of the loans had sufficient compensating factors to offset such exceptions.

28. During 2006 and 2007, Morgan Stanley waived exceptions on and purchased a large number of the loans found by Clayton to violate guidelines without sufficient compensating factors. In the last three quarters of 2006, Morgan Stanley waived more than half of all material exceptions found by Clayton (there can be more than one material exception on one "exception" loan), and purchased a substantial number of New Century loans found by Clayton to violate guidelines without sufficient compensating factors.

29. In addition, loans with certain exceptions such as high DTI ratios or high LTV or CLTV ratios that were in excess of underwriting guidelines but within a tolerance found acceptable to Morgan Stanley were purchased without a review by Clayton for compensating factors.

30. Portions of the diligence samples were randomly selected. In most pools during 2006 and 2007, substantial percentages of randomly sampled loans were identified by Clayton as exceptions. Overall, about a third of all randomly sampled New Century

loans were found by Clayton to violate guidelines without sufficient compensating factors.

c. CLTV Ratios Greater Than 100%

31. Appraisal quality is significant in evaluating the risk of subprime pools because poor appraisals may overstate the amount of equity a borrower has in the home. Property value is the denominator in the LTV and CLTV ratios, which are key criteria in assessing the risk of loss.

32. Starting in or around October 2005, in the course of reviewing and rejecting for purchase certain loans, Morgan Stanley became aware of problems in the quality of appraisals at New Century. The quality problems persisted through 2006 and 2007.

33. In Morgan Stanley's valuation diligence process, Morgan Stanley engaged independent providers to provide an opinion concerning the value of a sample of the properties securing the New Century loans. Generally, Morgan Stanley employed so-called broker price opinions or "BPOs" to check the value of the properties. In a BPO, a local broker evaluates the property and provides an indicated value and some additional information.

34. It was Morgan Stanley's stated policy not to securitize loans with LTV or CLTV values greater than 100%. However, Morgan Stanley did purchase and securitize numerous loans where the LTV or CLTV based on the BPO-checked value rather than the initial appraisal exceeded that threshold. Overall, 31% of the New Century loans on properties checked via BPOs in the valuation diligence process and securitized by Morgan Stanley in 2006 and 2007 had CLTV ratios based on the BPO-checked values

that were greater than 100%. In Morgan Stanley's securitizations during 2006 and 2007, 60% of the New Century loans with CLTVs based on the BPO-checked values over 100% had ratios greater than 105% on that basis, and about 19% of such loans had ratios greater than 120% on that basis. See the following chart based on information and calculations provided by Morgan Stanley:

Subprime Loans Originated by New Century and Securitized by Morgan Stanley in 2006 and 2007
Calculation of CLTV Ratios Using BPO Values (includes only Loans with BPO Values)

CLTV Range Using BPO Value (%)	All Loans		Loans with Original CLTV of 100	
	Number of Loans	% of Total	Number of Loans	% of Total
Less than or equal to 80	3,535	18.5%	374	4.2%
81 to 95	5,372	28.1%	1,624	18.1%
96 to 99	2,627	13.7%	1,737	19.4%
100	1,582	8.3%	1,416	15.8%
101 to 105	2,378	12.4%	1,733	19.3%
106 to 120	2,490	13.0%	1,603	17.9%
Over 120	1,141	6.0%	488	5.4%

35. Overall, in Morgan Stanley's securitizations with large numbers of New Century loans during this time period, about 6% of the New Century loans had BPO-based CLTVs over 100%. Moreover, many of these loans were part of the randomly sampled portion of loans reviewed in the valuation diligence process, potentially reflecting problems with the LTV and CLTV ratios of other New Century loans.

d. DTI Ratios and Stated Income Loans

36. The DTI ratio is another key factor that is used to assess the ability of the borrowers to pay the loans. The DTI values are provided to investors on the loan "tape," a spreadsheet that contains certain statistics concerning the loans.

37. On the loan tapes provided to investors in Morgan Stanley securitizations of New Century loans, the DTI ratio was typically calculated based on the teaser rate and did not reflect the Fully Indexed Mortgage Payment. Incorporating the Fully Indexed Mortgage Payment in the DTI ratio using Morgan Stanley's reset DTI analysis described above, the average DTI on the New Century tapes would be substantially higher. A large number of the ARM loans would have Fully Indexed DTI Ratios on this basis that were greater than 55%. Based on Morgan Stanley's analysis described above, such borrowers could not afford to repay these loans in accordance with their terms without refinancing. Such loans comprised a significant portion of the overall loan pools.

38. In 2005, Morgan Stanley employees were aware that stated income loans were among the riskiest newly originated subprime loans Morgan Stanley purchased and that such loans were among the most likely subprime loans to become delinquent or default. After rejecting a number of loans with overstated income in one New Century loan pool, one of Morgan Stanley's employees described the stated income method as overused to the point of abuse. Any inaccuracy in stated income would affect the reported DTI ratios, because income is the denominator of the DTI ratio.

39. As early as October 2005, Morgan Stanley's diligence team determined, in reviewing and rejecting loans for purchase, that the stated income on a number of New Century loans was unreasonable. In early 2006, a Morgan Stanley employee commented

that stated income credit was not adequately evaluated by New Century. About 36% of the loans originated by New Century and reviewed by Clayton in the diligence process were stated income loans. On average, the stated income of these borrowers was approximately 42% higher than the income of fully documented borrowers. The average stated income of these borrowers on an annual basis was about \$115,000.

40. Assuming that the stated income was closer to or similar to fully documented income, the average actual DTI ratio for stated income borrowers would be much higher than the DTI ratios reported by New Century in the loan tapes (averaging 41% for stated income loans), and a substantial number of these borrowers would have DTI ratios on this basis exceeding 55%.

F. Continued Sales of New Century Loan Products

41. Notwithstanding the problems identified above, Morgan Stanley continued to provide funding for New Century to make subprime loans, and continued to purchase and securitize New Century's subprime mortgages through 2006 and the first half of 2007.

42. In early March 2007, as New Century moved toward bankruptcy, when other banks and investment banks stopped providing financing and/or declared an event of default on New Century's credit lines, and Morgan Stanley itself had declared an event of default on New Century's line, Morgan Stanley wet-funded New Century loans between March 8th and 13th. Wet-funding is a mechanism through which Morgan Stanley effectively provided cash directly to New Century borrowers at the closing table. Morgan Stanley's wet-funding permitted New Century to close millions of dollars in subprime loans in March 2007. Morgan Stanley agreed to provide this funding. At the

same time, New Century posted sufficient collateral to more than compensate Morgan Stanley in the event of a default, and certain of Morgan Stanley's unsecured claims against New Century were converted into secured claims.

G. Harm Stemming from These Practices

43. From fourth quarter 2005 through first quarter 2007, Morgan Stanley aided and financed the business of originating unfair mortgage loans to Massachusetts borrowers in violation of Massachusetts law in that:

- Morgan Stanley knew that many borrowers could not repay the loans according to the terms of the loans without refinancing; and

- Morgan Stanley provided substantial assistance to New Century through its warehouse funding, forward purchasing and other activities that enabled New Century to make these unfair loans to certain Massachusetts borrowers.

These borrowers were harmed by Morgan Stanley's actions.

44. In addition, two Massachusetts state entities, the Massachusetts state pension fund known as the Pension Reserves Investment Trust ("PRIT"), and a fund used for investing municipal cash, the Massachusetts Municipal Depository Trust (the "MMDT"; together with PRIT, the "state entities") purchased certain securities through an intermediary from Morgan Stanley backed by New Century loans, some of which were unfair to borrowers. As a result, funds deriving from the state entities may have been used indirectly to finance or securitize loans that were in violation of Massachusetts law, and the state entities suffered significant losses in their investments.

IV. PROSPECTIVE CONDUCT PROVISIONS

45. To the extent that Morgan Stanley continues or resumes the business of purchasing, securitizing, or providing financing secured by Subprime Loans, Morgan Stanley agrees to adopt the following practices:

- (a) Morgan Stanley will only purchase Massachusetts Subprime Loans from an originator if such loans have been underwritten on the basis of the borrower's ability to repay at the Fully Indexed Rate upon origination;
- (b) Morgan Stanley will continue to use a process that is reasonably designed to prevent the purchase of loans that violate G. L. c. 183, § 28C (the "BBI statute"), including any related regulations;
- (c) Morgan Stanley will not purchase loans that are presumptively unfair under G. L. c. 93A, as that term is defined in Massachusetts law and court decisions, or as it may subsequently be modified;
- (d) With respect to warehouse financing, Morgan Stanley will take steps reasonably designed to prevent the extension of credit to originators secured by Subprime Loans to Massachusetts borrowers that violate the BBI statute or are presumptively unfair under c. 93A, as that term is defined in Massachusetts law and court decisions, or as it may subsequently be modified. If, during the bulk purchase due diligence process, Morgan Stanley has identified material systemic or recurring compliance exceptions in an identifiable category or subcategory of an originator's loans, Morgan Stanley shall implement screens reasonably designed to prevent in advance when possible and in any event, shall

identify and remove, the funding of such Subprime Loans to
Massachusetts borrowers;

- (e) To the extent that Morgan Stanley obtains BPOs on Subprime Loans that are securitized on a principal basis, it will provide to investors in Massachusetts loan level and aggregate data showing the BPO values and recalculate all LTV and CLTV fields using the BPO values;¹
- (f) For adjustable rate Subprime Loans securitized by Morgan Stanley on a principal basis, Morgan Stanley will provide to investors in Massachusetts loan level and aggregate data reporting of the Fully Indexed Mortgage Payment, the originator-provided monthly income of the borrower, and the resulting DTI; and
- (g) If, within the next fourteen (14) months after the date of the AOD, the Federal Government adopts no law or regulation requiring asset-backed securities disclosure of waivers or similar action that resulted in loans found by a due diligence vendor to be material exceptions to the underwriting guidelines without compensating factors being placed in the securitized pool, Morgan Stanley will make such disclosures to investors in Massachusetts.

46. Morgan Stanley will implement the practices described in paragraph 45 on a Best Efforts basis and will apply them to the purchase, financing, and securitization of Subprime Loans originated after the date of this AOD. The practices described in

¹ Where Morgan Stanley has obtained more than one BPO within six months of the date of a securitization, Morgan Stanley will provide to investors in Massachusetts loan level and aggregate data showing the latest BPO value and the lowest other BPO value, together with recalculated LTV and CLTV fields using both BPO values.

subparagraphs a-c of paragraph 45 will apply to Subprime Loans to Massachusetts borrowers purchased in bulk for securitization by Morgan Stanley on a principal basis. If Morgan Stanley can re-underwrite or modify such loans to bring them into compliance with subparagraphs a-c of paragraph 45, Morgan Stanley may do so.

47. The prospective conduct provisions set forth in paragraph 45 are intended to supplement federal law and will not require Morgan Stanley to do anything that is inconsistent with federal law. For purposes of this paragraph, an act is inconsistent with federal law when Morgan Stanley cannot comply with both the federal law and the requirements contained in paragraph 45. When an act is inconsistent with federal law, the AGO and Morgan Stanley shall amend this AOD to resolve any such conflict with respect to the pertinent sub-paragraph(s) of paragraph 45, but Morgan Stanley shall continue to follow the practices set forth in all other sub-paragraphs of paragraph 45. This paragraph is not intended to supplant governing case law regarding the application of the Supremacy Clause of the U.S. Constitution.

V. PAYMENTS

48. At a date to be agreed upon with the AGO, but in no circumstance later than twelve (12) business days after the filing of this AOD, Morgan Stanley will, per the direction and determination by the AGO, make the following payments:

- a. \$18,525,000 to the Commonwealth of Massachusetts, by certified check payable to the Commonwealth of Massachusetts, delivered to Cassandra Roeder, Office of the Attorney General, One Ashburton Place, Boston, MA 02108; and

- b. \$975,000 to the AGO pursuant to G.L. c. 12, sec. 4A, by check payable to the Office of the Attorney General, delivered to Cassandra Roeder, Office of the Attorney General, One Ashburton Place, Boston, MA 02108, which shall be used for administering the terms of this AOD, monitoring Morgan Stanley's compliance with the terms of this AOD, assisting in the implementation of the relief programs described in this AOD, and supporting the AGO's continuing investigation of the financing, purchase, and securitization of allegedly unfair residential mortgage loans.

49. At a date to be agreed upon with the AGO, but in no circumstances later than fifteen (15) business days after the filing of this AOD, Morgan Stanley shall pay \$51,834,449.23 to an independent trust ("**Settlement Fund**") for purposes of making payments to provide principal forgiveness to certain borrowers as set forth in this AOD. The Settlement Fund shall be overseen by an independent trustee ("**Trustee**") to be mutually agreed upon by the AGO and Morgan Stanley within ten (10) days of the date of this AOD. If the AGO and Morgan Stanley are unable to agree on the identity of the Trustee, the AGO shall choose the Trustee in its sole discretion. The Trustee shall deposit the Settlement Fund into interest bearing accounts such that, to the extent possible: (i) all of the funds are fully guaranteed by the Federal Deposit Insurance Corporation, ("FDIC") or The United States Department of the Treasury; and (ii) the interest rates are at least equal to the highest interest rate available from among the five largest banks in the City of Boston for a fully liquid deposit account holding such a sum of money. The Trustee will make investments of and disbursements from the Settlement

Fund only with the consent of the AGO and may vary from the investment criteria of this paragraph only with the consent of the AGO.

50. At a date to be agreed upon with the AGO, but in no circumstances later than fifteen (15) business days after the filing of this AOD, Morgan Stanley shall also pay \$6,000,000 to another independent trust ("**Foreclosure Relief Fund**") also overseen by the Trustee, for purposes of making payments to certain additional borrowers as set forth in this AOD. The Trustee shall deposit the Foreclosure Relief Fund into interest bearing accounts such that, to the extent possible: (i) all of the funds are fully guaranteed by the FDIC or The United States Department of the Treasury; and (ii) the interest rates are at least equal to the highest interest rate available from among the five largest banks in the City of Boston for a fully liquid deposit account holding such a sum of money. The Trustee will make investments of and disbursements from the Foreclosure Relief Fund only with the consent of the AGO and may vary from the investment criteria of this paragraph only with the consent of the AGO.

51. At a date to be agreed upon with the AGO, but in no circumstances later than fifteen (15) days after the filing of this AOD, Morgan Stanley shall pay \$23,376,744.25 to another independent trust ("**Completion Fund**"), also overseen by the Trustee, for purposes of making certain payments as determined and directed by the Attorney General to certain state entities. The Trustee shall deposit the Completion Fund into interest bearing accounts such that, to the extent possible: (i) all of the funds are fully guaranteed by the FDIC or The United States Department of the Treasury; and (ii) the interest rates are at least equal to the highest interest rate available from among the five largest banks in the City of Boston for a fully liquid deposit account holding such a sum

of money. The Trustee will make investments of and disbursements from the Completion Fund only with the consent of the AGO and may vary from the investment criteria of this paragraph only with the consent of the AGO.

52. Morgan Stanley will pay the Trustee's commercially reasonable fees and costs associated with its duties under this AOD separate and apart from all other payments required under this AOD.

VI. INFORMATION DEVELOPMENT FOR THE LOAN PRINCIPAL FORGIVENESS PROGRAM

53. No later than five (5) days after the filing of this AOD, Morgan Stanley shall provide to the AGO, pursuant to G.L. c. 93A, sec. 6, a list of borrowers who obtained loans meeting the criteria set forth in **Attachment A**. This list shall also include such information, to the extent Morgan Stanley has the information in its control or can obtain the information without undue burden, regarding the borrowers, their loans, the holder of the loans, the servicer of the loans, and the status of the loans, as the AGO shall specify ("Initial Borrower List"). The list shall also include, for each borrower on the list, the amount of principal forgiveness calculated on the borrower's loan(s) in accordance with the methodology set forth in **Attachment B**. Within sixty (60) days of receiving the Initial Borrower List, the AGO shall inform Morgan Stanley if the AGO disagrees with the content or calculations of the Initial Borrower List, and shall work in good faith with Morgan Stanley to resolve such differences. If such a resolution cannot be reached within two weeks, the AGO may make such corrections or adjustments to the Initial Borrower List as it deems appropriate in its sole discretion. The finalized version of this list shall be referred to in this AOD as the "Final Borrower List."

54. Within five (5) days of the initial delivery of the Initial Borrower List to the AGO, the AGO may direct Morgan Stanley to send a mutually agreeable letter to each holder and/or servicer of a loan on the Initial Borrower List. Morgan Stanley shall send this letter within three (3) days of the AGO's direction. This letter shall seek to determine whether the holder and/or servicer will accept payments for principal forgiveness as part of the implementation of this AOD and whether the holder and/or servicer agrees to apply principal forgiveness amounts received from the Trustee to the relevant borrower's loan as a principal forgiveness ("principal forgiveness program"). The letter shall also specify that the holder and/or servicer must agree to these terms in writing within ninety (90) days of the initial mailing of the letter in order to receive the funds. The letter shall also specify that the written agreement must specify to whom funds transferred by the Trustee in accordance with this AOD shall be directed. Morgan Stanley shall undertake reasonable steps to inform the holder and/or servicer regarding the principal forgiveness program, and shall in good faith attempt to secure the holder's and/or servicer's participation as early as practicable within the ninety (90) day timeframe. On a rolling basis as received, Morgan Stanley shall inform the AGO of all holders and/or servicers that have agreed to participate in the principal forgiveness program, and shall provide the AGO with copies of the written documentation of this agreement.

55. Within one hundred (100) days of the initial delivery of the Initial Borrower List to the AGO, the AGO may direct Morgan Stanley to send a mutually agreeable letter to each person who is both (1) a borrower on the Final Borrower List ("Qualified Borrower") and (2) a borrower whose loan holder and/or servicer has agreed

to participate in the principal forgiveness program ("Qualified Borrower With Participating Holder", or "QBWPH"). This letter ("QBWPH Letter") shall inform the QBWPH of this AOD and the loan principal forgiveness available ("loan principal forgiveness program") to the QBWPH under this AOD. The QBWPH Letter shall include a web address and dedicated telephone number that QBWPHs may use to obtain information regarding the AOD, shall note that the AGO is seeking a Private Letter Ruling from the Internal Revenue Service regarding the tax implications of the loan principal forgiveness program, and shall suggest that the QBWPH consider obtaining tax advice regarding the effect of participating in the loan principal forgiveness program. The QBWPH Letter shall also include a postage paid return envelope, and a form ("Opt-in Form") that the QBWPH may use to agree to participate in the loan principal forgiveness program available under the AOD. If Morgan Stanley and the AGO cannot agree upon the content and format of the Opt-in Form within 100 days of the initial delivery of the Borrower List to the AGO, the AGO may design the content (consistent with this AOD) and form of the Opt-in Form.

56. Morgan Stanley will send the QBWPH Letter and Opt-In Form through the U.S. Postal Service ("USPS") with delivery confirmation. If any such mailing is returned to Morgan Stanley by the USPS with a forwarding address within thirty (30) days of Morgan Stanley's mailing, Morgan Stanley will re-mail the item to said forwarding address within ten (10) days of the date the QBWPH Letter is returned to Morgan Stanley by the USPS.

57. For each Opt-in Form executed and returned to Morgan Stanley within one hundred and eighty (180) days of the initial mailing, Morgan Stanley shall make a

copy for its records of the executed Opt-in Form and then provide the executed Opt-in Form to the Trustee within ten (10) days of receipt by Morgan Stanley. The Trustee shall maintain these executed Opt-in Forms in a secure fashion as directed by the AGO. In addition, the Trustee shall keep in the same manner any additional executed Opt-in Forms provided to the Trustee by the AGO within a period of time after the initial mailing as set by the AGO.

58. It is the intention of Morgan Stanley and the AGO that payments by the Trustee from the Settlement Fund comprise and constitute debt forgiveness within the meaning of the Mortgage Forgiveness Debt Relief Act of 2007 (as extended by the Emergency Economic Stabilization Act of 2008). Morgan Stanley shall assist the AGO in seeking additional guidance from the Internal Revenue Service regarding the loan principal forgiveness program of this AOD. Morgan Stanley shall provide the AGO with information relating to the loans and/or the principal forgiveness program implementation reasonably available to Morgan Stanley upon request.

VII. LOAN PRINCIPAL FORGIVENESS PAYMENTS

59. For each QBWPH who has returned an executed Opt-In Form in accordance with the previous paragraphs, the Trustee shall send a check as directed by the holder and/or servicer pursuant to the written agreement referenced in paragraph 54, along with specific information regarding the loan to which the principal forgiveness should be applied. This check shall be in the amount identified on the Final Borrower List as the principal forgiveness for the relevant QBWPH. If a holder and/or servicer fails to apply the check as principal forgiveness within a reasonable time period to be determined by the AGO, the AGO may direct that the Trustee permanently stop payment

on the check. After such instruction to stop payment, the QBWPH shall thereafter no longer be considered a QBWPH, but shall still be considered a Qualified Borrower for purposes of this AOD.

60. Morgan Stanley intends to and shall cause a Form 1099-C to be issued to each borrower reflecting the cancellation of debt associated with this principal forgiveness program. Together with the Form 1099-C, Morgan Stanley will send a letter advising that a Form 982 must be filed to claim any exclusion from gross income for the amount of principal forgiveness.

61. For any Qualified Borrower who is not a QBWPH, the AGO may direct Morgan Stanley to send a mutually agreeable letter ("Non-QBWPH Letter") to the Qualified Borrower that explains the AOD and offers the Qualified Borrower an opportunity to receive a payment for the purpose of principal forgiveness. The Non-QBWPH letter shall include a web address and dedicated telephone number that Qualified Borrowers may use to obtain information regarding the AOD, shall note that there may be tax consequences for a Qualified Borrower accepting such monies, shall note that the borrower should seek tax advice, shall provide a form ("Payment Authorization Form") which the Qualified Borrower may execute and return to Morgan Stanley if the Qualified Borrower wishes to receive such a payment, and shall explain the time frame for accepting the payment. Should Morgan Stanley and the AGO be unable to agree on the content of the Payment Authorization Form, the AGO may design the form in its sole discretion.

62. Morgan Stanley will send the Non-QBWPH letter and Payment Authorization Form through the USPS with delivery confirmation. If any such mailing is

returned to Morgan Stanley by the USPS with a forwarding address within thirty (30) days of Morgan Stanley's mailing, Morgan Stanley will re-mail the item to said forwarding address within ten (10) days of the date the Non-QBWP letter is returned to Morgan Stanley by the USPS.

63. Morgan Stanley shall forward copies to the Trustee of all Payment Authorization Forms received within one hundred and twenty (120) days of the initial mailing of the unexecuted Payment Authorization Forms ("Delivery Time Frame"). Morgan Stanley shall provide the copies of the executed Payment Authorization Forms to the Trustee within ten (10) days of receipt by Morgan Stanley. For each Qualified Borrower for whom the Trustee receives a Payment Authorization Form from Morgan Stanley within the Delivery Time Frame, or from the AGO within a time period set by the AGO, the Trustee shall send a check to the Qualified Borrower for the amount listed on the Final Borrower List. If any check sent to a Qualified Borrower under this paragraph remains uncashed sixty (60) days after the initial mailing, the Trustee shall take reasonable efforts to contact the Qualified Borrower regarding the status of the checks, and inform the Qualified Borrower that he or she must cash the check within one hundred and twenty (120) days of the date the check was issued ("Check Issuance Date"), or payment will be permanently stopped on the check and the Qualified Borrower will no longer be eligible to receive the monies. The AGO may extend this deadline or alter this procedure as it deems appropriate in its sole discretion.

64. On July 1, 2011, the Trustee shall permanently stop payment on all outstanding uncashed checks and transfer any remaining monies from the Settlement Fund into the Foreclosure Relief Fund.

VIII. INFORMATION DEVELOPMENT FOR FORECLOSURE RELIEF

65. No later than ten (10) days after the filing of this AOD, the AGO shall provide a list of initial criteria for certain loans to Massachusetts residents that Morgan Stanley has securitized ("Foreclosure Relief Criteria"). Within thirty (30) days of receiving the Foreclosure Relief Criteria, Morgan Stanley shall provide to the AGO, pursuant to G.L. c. 93A, sec. 6, a list including borrowers who obtained loans meeting the Foreclosure Relief Criteria. This list ("Initial Foreclosure Relief List") shall also include such information, to the extent Morgan Stanley has the information in its control or can obtain the information without undue burden, regarding the borrowers, their loans, the servicer, and the history and status of the loans, as the AGO shall specify. Within fifty (50) days of receiving the Initial Foreclosure Relief List, the AGO shall provide the Trustee with criteria to be used in calculating payment amounts to be ascribed to each borrower, and the Trustee shall within ten (10) days: (i) calculate for each borrower on the Initial Foreclosure Relief List ("Foreclosure Relief Borrower") the maximum amount to be paid to the borrower ("Notional Foreclosure Relief Payment"), as well as the pro rata portion of each Notional Foreclosure Relief Payment that can be paid from the outstanding balance of the Foreclosure Relief Fund ("Initial Foreclosure Relief Payment"), (ii) add the amounts referenced in item (i) to the Initial Foreclosure Relief List, and (iii) provide the updated Initial Foreclosure Relief List to the AGO. After the Trustee has so updated the Initial Foreclosure Relief List, the AGO shall inform the Trustee if the AGO disagrees with any content of or calculations on the Initial Foreclosure Relief List, and shall work in good faith with the Trustee to resolve such

differences. If such a resolution cannot be reached within two weeks, the AGO may make such corrections or adjustments to the Initial Foreclosure Relief List as it deems appropriate in its sole discretion. If any changes occur to the Initial Foreclosure Relief List as a result of this process, the pro rata Initial Foreclosure Relief Payments shall be recalculated based on the updated list of Notional Foreclosure Relief Payments. The finalized version of this list shall be referred to in this AOD as the "Final Foreclosure Relief List."

66. Within one hundred and twenty (120) days of the initial delivery of the Initial Foreclosure Relief List to the AGO, the AGO may direct Morgan Stanley to send a mutually agreeable letter ("Foreclosure Relief Letter") to each borrower on the Final Foreclosure Relief List ("Foreclosure Relief Borrower"), informing the Foreclosure Relief Borrower of this AOD and the potential relief available ("Foreclosure Relief Program") to the Foreclosure Relief Borrower under this AOD. The Foreclosure Relief Letter shall include a web address and dedicated telephone number that Foreclosure Relief Borrowers may use to gather information regarding the AOD. The Foreclosure Relief Letter shall note that there may be tax consequences for a borrower accepting such monies and shall note that the borrower should seek individual tax advice. The Foreclosure Relief Letter shall also include a postage paid return envelope, and a form ("Foreclosure Opt-in Form", or "FOF") that the Foreclosure Relief Borrower may use to agree to participate in the Foreclosure Relief Program available under the AOD. Morgan Stanley shall undertake commercially reasonable efforts to obtain current addresses for the Foreclosure Relief Borrowers. If Morgan Stanley and the AGO cannot agree upon the content and format of the FOF within one hundred and twenty (120) days of the initial

delivery of the Initial Foreclosure Relief List to the AGO, the AGO may design the content (consistent with this AOD) and form of the FOF.

67. Within five (5) days of notice from the AGO, Morgan Stanley will send the Foreclosure Relief Letter and FOF through the USPS with delivery confirmation. If any such mailing is returned to Morgan Stanley by the USPS with a forwarding address within thirty (30) days of Morgan Stanley's mailing of the Foreclosure Relief Letter and FOF, Morgan Stanley will re-mail the Foreclosure Relief Letter and FOF to said forwarding address within ten (10) days of the date the Foreclosure Relief Letter is returned to Morgan Stanley by the USPS.

68. For each FOF executed and returned to Morgan Stanley within one hundred and eighty (180) days of the initial mailing, Morgan Stanley shall make a copy of the executed FOF for its records and provide the original to the Trustee within ten (10) days of receipt by Morgan Stanley. The Trustee shall maintain these executed FOFs in accordance with instructions from the AGO. In addition, the Trustee shall similarly maintain any additional executed FOFs provided to the Trustee by the AGO within a period of time after the initial mailing as set by the AGO.

IX. FORECLOSURE RELIEF PROGRAM PAYMENTS

69. Within ten (10) days of receiving an executed FOF from Morgan Stanley or the AGO, the Trustee shall send a check to the relevant Foreclosure Relief Borrower for the Foreclosure Relief Borrower's Initial Foreclosure Relief Payment, along with an explanatory letter as directed by the AGO.

70. If any check sent to a Foreclosure Relief Borrower remains uncashed within sixty (60) days of its initial mailing, the Trustee shall take reasonable efforts to

contact the Foreclosure Relief Borrower regarding the status of the check as directed by the AGO, and inform the Foreclosure Relief Borrower that he or she must cash the check within one hundred and twenty (120) days of the Check Issuance Date, or the Trustee will permanently stop payment on the check and the Qualified Borrower will no longer be eligible for the Foreclosure Relief Program. The AGO may, in its discretion, extend this deadline.

71. On November 1, 2011, or such other date as the AGO shall determine, the Trustee shall calculate the difference between the Notional Foreclosure Relief Payment for each Foreclosure Relief Borrower and the Initial Foreclosure Relief Payment for that borrower ("Secondary Foreclosure Relief Payment"), and provide, on a pro rata basis, to the extent funds are available in the Foreclosure Relief Fund, a check for this amount to the Foreclosure Relief Borrower, along with an explanatory letter as directed by the AGO. The Trustee shall undertake reasonable efforts as directed by the AGO to locate Foreclosure Relief Borrowers and provide them with these checks. To the extent a check is uncashed sixty (60) days after it is mailed to the Foreclosure Relief Borrower, the Trustee shall place a permanent stop payment order on the check. On February 1, 2012, any remaining monies in the Foreclosure Relief Fund shall be transferred by the Trustee to the AGO pursuant to G.L. c. 12 sec. 4A for the purposes of administering the terms of this AOD, monitoring Morgan Stanley's compliance with the terms of this AOD, assisting in the implementation of the relief programs described in this AOD, and for investigation and mediation of related financial services issues.

72. If Morgan Stanley receives any letters or forms in relation to this AOD from any borrower who received an offer under this AOD, Morgan Stanley shall forward

such forms to the AGO even if such letters or forms are received outside of the time frames contemplated by this AOD.

X. FORECLOSURE RELATED SERVICES

73. Separate and apart from any other payment specified under this AOD, Morgan Stanley intends to make a donation of \$2,000,000 to a not-for-profit entity or entities who provide counsel to Massachusetts borrowers, to assist consumers with issues stemming from foreclosure of subprime loans and related issues. As part of this AOD, Morgan Stanley shall:

- a. make the donation of \$2,000,000 within forty-five (45) days of the filing of this AOD;
- b. consult with the AGO regarding the allocation of such monies, so that the combination of recipient organizations will provide coverage for consumers located in all sections of the Commonwealth in relative proportion to the number of foreclosures suffered in those sections of the Commonwealth, and provide such donation monies only to not-for-profit groups to which the AGO does not object;
- c. condition the donation on the requirement that the not-for-profit groups give priority to borrowers referred to them by the AGO for assistance;
- d. condition the donation on the requirement that the not-for-profit groups make available to qualified foreclosed borrowers the types of assistance as the AGO shall recommend; and

- e. condition the donation on the requirement that the not-for-profit groups provide such information and reports to the AGO as the AGO requires regarding the not-for-profit groups' uses of the donation.

XI. COMPLETION FUND PAYMENTS

74. As directed and determined by the AGO, the Trustee shall within thirty (30) business days of the entry of this AOD issue the following payments from the Completion Fund:

- a. \$23,193,157.94 to PRIT or its designee, by certified check payable to PRIT, delivered by a method and to a PRIT representative identified by the AGO;
- b. \$183,586.31, to the MMDT or its designee, by certified check payable to the MMDT, delivered by a method and to an MMDT representative identified by the AGO.

75. On July 1, 2011, any remaining monies in the Completion Fund shall be transferred by the Trustee to the Foreclosure Relief Fund.

XII. COOPERATION AND RECORD KEEPING

76. Morgan Stanley shall fully cooperate with the AGO in its implementation of this AOD.

77. Morgan Stanley will comply with all reasonable requests by the AGO for documents or information related to the subject matter of the AOD as set forth in Sections I and III.

78. Morgan Stanley will create and maintain, for a period of at least five years from the entry date of this AOD, records sufficient to demonstrate Morgan Stanley's

compliance with its obligations under this AOD and will provide such records to the AGO upon request.

XIII. MISCELLANEOUS PROVISIONS

79. The AGO will not proceed with or institute a civil action or proceeding based upon M.G.L. c. 93A or any other statute or regulation, or common law, against Morgan Stanley, or any of Morgan Stanley's present or former employees (relating solely to their conduct during their employment by Morgan Stanley), agents, subsidiaries and subdivisions, successors, assigns, or any purchasers of all or substantially all of its assets, including but not limited to any action or proceeding seeking restitution, injunctive relief, fines, penalties, attorneys' fees or costs, for Morgan Stanley's actions prior to the entry date of this AOD relating to Morgan Stanley's alleged actions as set forth in Sections I and III of this AOD.

80. The AOD constitutes the entire agreement between the AGO and Morgan Stanley and supersedes any prior communication, understanding or agreements, whether written or oral, concerning the subject matter of the AOD. This AOD can be modified or supplemented only by a written document signed by both parties.

81. The AOD will be binding upon Morgan Stanley, its agents, subsidiaries and subdivisions, as well as its successors, assigns, and/or purchasers of all or substantially all of its assets.

82. Morgan Stanley represents and warrants that it has the full legal power, capacity, and authority to bind the parties for whom it is acting, including its affiliates involved in the mortgage financing and securitization business.

83. The AOD and its provisions will be effective on the date that it is filed in the Superior Court for Suffolk County.

84. All notices required under the AOD will be provided as follows:

To the AGO:

Cassandra Roeder
Office of the Massachusetts Attorney General
Public Protection & Advocacy Bureau
Insurance & Financial Services Division
One Ashburton Place 18th Floor
Boston, MA 02108
(617) 963-2812

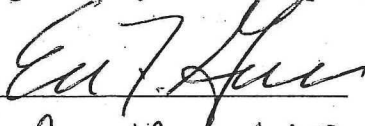
To Morgan Stanley:

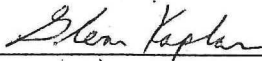
Eric Grossman
General Counsel of the Americas
Morgan Stanley
1221 Avenue of the Americas
New York, NY 10020

85. By signing below, Morgan Stanley & Co. Incorporated, on behalf of itself and its affiliates involved in the mortgage financing and securitization business, agrees to comply with all of the terms of this AOD. Any violation of this AOD may be pursued in a civil action or proceeding under M.G.L. c. 93A hereafter commenced by the AGO.

Morgan Stanley & Co. Incorporated

Office of the Attorney General

By: 

By: 

Title: General Counsel of The Americas

Title: Assistant Attorney General

Date: June 21, 2010

Date: 6/24/10

ATTACHMENT A

CRITERIA FOR DETERMINING INITIAL BORROWER LIST

- A. Borrowers of residential mortgage loans originated by New Century, secured by Massachusetts owner-occupied properties, purchased by Morgan Stanley from New Century, between November 3, 2005 and December 31, 2007, and securitized by Morgan Stanley between January 1, 2006 and December 31, 2007 where the loan neither paid off nor was written off as a loss prior to Loan Performance Reports of March 2010.
- B. Borrowers of residential mortgage loans, secured by Massachusetts owner-occupied properties, where the loans were originated by lenders other than New Century or purchased from an entity other than New Century, that Morgan Stanley purchased and securitized between January 1, 2006 and December 31, 2007, where the loan was presumptively unfair under Massachusetts law, including existing Massachusetts Superior Court decisions, and where the loan neither paid off nor was written off as a loss prior to Loan Performance Reports of March 2010.
- C. Borrowers of residential mortgage loans that either were originated by New Century or presumptively unfair under Massachusetts law, including existing Massachusetts Superior Court decisions, where the loan is secured by Massachusetts owner-occupied properties and the loan is owned by Morgan Stanley as of June 1, 2010.

ATTACHMENT B

PRINCIPAL FORGIVENESS CALCULATIONS

The principal forgiveness calculations shall be as of Loan Performance Reports of March 2010 and the amounts shall be as follows:

- (a) for First Lien Performing Loans the amount shall be the lower of:
 - (i) 25% of the UPB or
 - (ii) so much of the UPB to bring the LTV to 96.5%;
- (b) for First Lien Non-Performing Loans, the amount shall be 35% of the UPB;
- (c) for Second Lien Performing Loans, the amount shall be 50% of the UPB; and
- (d) for the Second Lien Non-Performing loans the amount shall be the entire UPB.

If the first and second lien loans were both purchased by Morgan Stanley (matched by property address and borrower name), and the first lien loan has a LTV before the principal forgiveness of greater than 96.5 percent, the entire second lien UPB shall be forgiven. If the first lien loan has a LTV of less than 96.5 percent before the principal forgiveness, the second lien loan shall be forgiven in accordance with sections (c) or (d) above as applicable.

The term "Performing" shall mean less than sixty days delinquent as of Loan Performance reports of March 2010 under the Mortgage Bankers' Association delinquency calculation methodology. The term "Non-Performing" shall mean greater than or equal to sixty days delinquent under the Mortgage Bankers' Association delinquency calculation methodology.

For the purposes of this attachment, the value used for the LTV calculation will be determined by applying the changes in the loan's applicable Case-Shiller Housing Price Index through first quarter 2010 to the value of the loan at the time it was securitized (or the time of purchase if the loan falls within category C of Attachment A) .